

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

OREGON NURSES ASSOCIATION, a
labor union,

Plaintiff,

v.

**PROVIDENCE HEALTH AND
SERVICES-OREGON**,

Defendant.

No. 3:21-cv-01570-JR

OPINION AND ORDER

MOSMAN, J.,

On May 1, 2023, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (F&R) [ECF 51], recommending that Plaintiff's Motion for Summary Judgment [ECF 35] should be GRANTED and Defendant's Motion for Summary Judgment [ECF 39] be DENIED. Defendant filed an objection [ECF 53], and Plaintiff filed a response [ECF 54].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

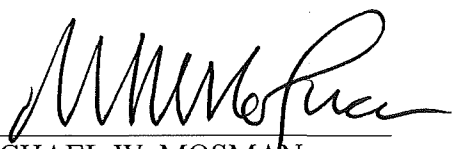
is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Russo's recommendation and I ADOPT the F&R [ECF 51] as my own opinion. There is one point that merits further discussion. Defendant argues that under the CBAs, discharge means disciplinary discharge. I disagree. The plain meaning of discharge is "to dismiss from employment," suggesting that discharge is not limited to dismissal for disciplinary reasons. *Discharge*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/discharge> (last visited Jul 24, 2023). Additionally, neither CBA distinguishes between disciplinary and non-disciplinary discharge, nor do they expressly state that all discharges are disciplinary. Because the CBAs do not limit discharge to disciplinary discharge, it is unnecessary to determine if the discharges were disciplinary.

Plaintiff's Motion for Summary Judgment [ECF 35] is GRANTED, and Defendant's Motion for Summary Judgment is DENIED [ECF 39].

IT IS SO ORDERED.

DATED this 14 day of August, 2023.


MICHAEL W. MOSMAN
Senior United States District Judge